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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

January 10, 2000

Mr. Michael Smith  
District Mining Manager  
Hawk Run District Mining Office  
Empire Road, P.O. Box 209  
Hawk Run, PA 16840-0209

Mr. Roger Hornberger  
District Mining Manager  
Pottsville District Mining Office  
5 West Laurel Boulevard  
Pottsville, PA 17901-2454

**RE: Acceptance of the Coal Remining/Reclamation XL Project**

Dear Messrs. Smith and Hornberger:

The U.S. Environmental Protection Agency ("EPA") has received and reviewed the September 30, 1999 Pennsylvania Department of Environmental Protection ("PADEP") Coal Remining and Reclamation Project XL proposal ("Proposal"). After considering the Proposal and additional information obtained from PADEP in meetings and discussions with my staff, I am pleased to inform you that EPA is accepting PADEP's Proposal into the Project XL development phase. Project XL was created to encourage innovative environmental strategies for the 21<sup>st</sup> century and to foster excellence and leadership in environmental protection. EPA believes your Proposal has the potential to accomplish these goals.

EPA looks forward to working with PADEP, the mining companies and other appropriate stakeholders to develop a Final Project Agreement ("FPA") for the project. The FPA will document the commitments and expectations of all the parties. The FPA will also describe the mechanism for PADEP to propose, and EPA and other stakeholders to concur on the incorporation of up to five additional mining sites into the XL Project.

This XL Project will test an innovative approach to writing coal remining permits with an emphasis on Best Management Practices ("BMPs") and in-stream monitoring as an alternative to standard numeric effluent limitations at point sources. Testing this approach will provide valuable data

and practical experience to the EPA Office of Water as it examines coal remining effluent limitations and their effect on the overall water quality in degraded streams.

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EPA understands PADEP has proposed implementing the XL Project with a combination of a standard remining permit and a simultaneous consent order providing for the BMP approach to abate or reduce acid mine drainage and improve water quality. At this time, EPA staff have identified legal and enforcement obstacles to this approach which have not yet been resolved. We look forward to the opportunity to discuss these issues with PADEP in greater detail as we move towards negotiation of the FPA. We are confident that EPA and PADEP will be able to work together to reconcile these issues and identify the most suitable legal implementation mechanism for the project, ensuring the enforceability of the remining permits issued under this proposed pilot project while maintaining the integrity of the permitting process.

EPA believes the next step toward an FPA is for PADEP to develop a Stakeholder Involvement Plan to describe in more detail the outreach to, and solicitation of, input from individuals and organizations who might have an interest in the project. Please be aware that EPA is in position to provide convening and facilitation support for your stakeholder process. PADEP may want to encourage the participation of the coal remining companies as co-sponsors in the projects (rather than as stakeholders) since they will be directly receiving the benefit of the regulatory flexibility offered under Project XL. In addition to local communities and governments and local and national environmental groups, other stakeholders could include the Office of Surface Mining and the Interstate Mining Compact Commission as stated in your Proposal.

EPA looks forward to working with PADEP on a project which holds such promise for the reduction and prevention of acid mine drainage and the reclamation of scarred and abandoned mine land. EPA has assembled a project team to work with PADEP and the project stakeholders on development of the final FPA. Our Agency team is led by Steven J. Donohue of my staff and Ted Cochin of the Headquarters Office of Policy, Economics and Innovation. They expect to call you next week to commence the next steps for development of the FPA. If you have any questions, please contact Steve Donohue at (215) 814-3215 or Ted Cochin at (202) 260-0880.

Sincerely,

Thomas C. Voltaggio  
Deputy Regional Administrator

bc: Richard T. Farrell, US EPA-HQ  
Lisa Lund, US EPA-HQ